



**UNITED STATES DEPARTMENT OF COMMERCE**  
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HL

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/853,870	05/09/97	TOVEY	M 23164-1001

HM12/0610  
HELLER EHRMAN WHITE & MCAULIFFE  
525 UNIVERSITY AVENUE  
PALO ALTO CA 94301-1900

EXAMINER

GOLDBERG, J

ART UNIT	PAPER NUMBER
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1614

16

DATE MAILED: 06/10/99

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**08/853,870**

Applicant(s)  
**Yovey**

Examiner  
**Jerome D. Goldberg**

Group Art Unit  
**1614**



☒ Responsive to communication(s) filed on May 28, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 6, 13, and 17-33 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 6, 13, and 17-33 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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The Official Action of January 6, 1999 is herein withdrawn in review of the following rejection.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 13, 17-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Sato et al. patent of record. The Sato et al. patent teaches high dosages of Interferon (note claim 2 at  $10 \times 10^6$  IV of interferon) and is directed to application is the mucosa (see col. 7, lines 35-52) including the oral cavity (claim 5) of a patient with recurrent carcinoma. In view of this, the claimed high dose of interferon of at  $20 \times 10^6$  to  $1000 \times 10^6$  IV being administered to a patient with a carcinoma would be motivated in the absence of a side-by-side comparison.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner J.D. Goldberg, whose telephone

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number is (703) 308-4606. The examiner can normally be reached on Monday through Thursday from 9:00 AM to 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marianne Cintins, can be reached on (703) 308-4725. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.



JEROME D. GOLDBERG  
PRIMARY EXAMINER  
GROUP 1200

GOLDBERG; aco

June 8, 1999